

**WESTERN STATE UNIVERSITY COLLEGE OF LAW**  
**At Westcliff University**

**CIVIL PROCEDURE I, Section B**  
**SYLLABUS AND COURSE POLICIES – Fall 2024**

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**Class Meetings:** M/W 10:00 am – 11:30 am

**A. LEARNING OUTCOMES**

*Program Level (JD Program):*

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

**(1) Doctrinal Knowledge**

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

**(2) Practice Skills**

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

**(3) Legal Analysis**

Students will demonstrate the ability to identify the factual and legal issues implicated by

a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) **Legal Research**

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) **Communication**

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) **Advocacy of Legal Argument**

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) **Client Sensitivity and Cultural Competency**

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) **Legal Ethics**

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

*Course Level Learning Outcomes:*

This three (3) credit, semester-long course is the first half of the required six (6) credit courses which will explore the procedural rules which govern civil (as opposed to criminal) disputes.

During the fourteen weeks of this course, you will:

1. Explore some of the basic issues of Civil Procedure including personal jurisdiction, subject matter jurisdiction, choosing the forum for litigation, pleadings (how the dispute is framed), and the sometimes complex rules that help to determine whether a federal court hearing a dispute will apply federal or state law (and if state law, which state's law);
2. Come to appreciate the procedural structure of the overall litigation system by gaining an understanding of the policies and goals that underlie the structure;
3. Learn something about the complexities of "our federalism," a phrase which refers to our system of government, composed of fifty semi-sovereign states under the umbrella of our national (federal) government. This means not only learning about the framework of the civil dispute resolution process, but also examining a host of complex issues that arise involving where disputes get resolved (state or federal court, or which state among the fifty states that are part of our national union);
4. Observe, in the context of procedural law, how and why law changes over time; and
5. Begin to develop the analytic and strategic skills necessary for success in law school and in the practice of law. In other words, you will begin to "think like a lawyer."

#### **B. DISABILITY SERVICES STATEMENT**

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Library Building, Room 275-B. Dean Espinoza's phone number and email address are: (714) 459-1117; [despinoza@wsulaw.edu](mailto:despinoza@wsulaw.edu). When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at [mcianciarulo@wsulaw.edu](mailto:mcianciarulo@wsulaw.edu) or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

#### **C. REQUIRED TEXTS AND PROGRAMS**

1. Freer, Perdue & Efron, Civil Procedure: Cases, Materials & Questions ("**Freer**"), 9th ed. Carolina Academic Press, 2024 (NOTE: earlier editions are out of date)
2. Baicker-McKee, Janssen, A Student's Guide to the Federal Rules of Civil Procedure, West Academic, 2023-2024 Edition ("**Rules Supplement**") (NOTE: earlier editions are

- out of date)
3. Core Knowledge for Lawyers (“**Core**”) – online practice questions (included with new textbook purchase)
  4. Themis **U World** access for assigned multiple-choice questions (access provided during Orientation)

#### D. **BACKGROUND TO CIVIL PROCEDURE**

A centerpiece of this year-long course (though we will not turn our focus to it until the middle of the fall semester) will be the Federal Rules of Civil Procedure (“FRCP”) which are the rules applicable in civil litigation in federal court. Many states have modeled their own procedural rules after the FRCP, but not California. Nevertheless, there are many similarities between “California procedure” and “federal procedure.” Over the course of the year, we will note some of the key similarities and differences, but our focus will be on federal procedure. Once you learn that system of procedure well, learning about differences in procedural rules in California and other states will be much easier.

It is important to understand, however, that the law of Civil Procedure is derived from a wide variety of primary legal authorities besides the FRCP. So, you will be looking not just at “**rules**” (written rules drafted by the Advisory Committee on Rules of Civil Procedure and adopted by the Supreme Court), but also at **statutes** (laws enacted by Congress), **the Constitution**, and **case law** interpreting the rules, statutes and constitutional provisions. For example, the law of personal jurisdiction is largely constitutional case law (interpreting the due process clause of the 14th Amendment). By comparison, the subject matter jurisdiction of federal courts is defined by Article III of the United States Constitution and federal statutes enacted by Congress under authority given to Congress by Article III. And to take two more quick examples, the FRCP set out the “service of process” rules that dictate to the party bringing a lawsuit (plaintiff) how the party being sued (defendant) must be notified that a lawsuit has been brought against the individual in federal court. The FRCP also set out the “pleading” rules that establish the requirements the parties (plaintiff and defendant) must adhere to in setting forth their claims and defenses in that lawsuit. But even where a rule, statute, or constitutional provision (or some combination of the three) seems to govern a particular procedural issue, courts are called on to interpret these various written laws. Not surprisingly, these interpretations by different courts, reflected in judicial opinions, are sometimes conflicting.

Therefore, although this course deals with written procedural rules, statutes, and constitutional provisions, we will read judicial opinions too, as you do in your other classes. But unlike some of your other classes, where almost all of the primary legal authority you study is case law, in Civil Procedure you must learn to read cases in the context of the rules, statutes and constitutional provisions they interpret and apply. Therefore, to adequately prepare for class, you must read all the assigned materials carefully, including assigned cases from the “**Freer**” casebook and the listed rules, statutes, and constitutional provisions that can all be found in the “**Rules supplement**” (see class reading assignments listed below). When reading the rules or statutes assigned in the “**Rules supplement**” book, you should read the rule or statute itself, “How This Rule Fits In” for better understanding of the big picture, “The Architecture of this Rule” to help

you break down the rule, and “Practicing Law Under This Subpart” to understand the application of the rule in real-world practice (as explained on p. v of the Rules Supplement).

Also very helpfully, the casebook authors will often pose **questions and problems at the end of a segment of reading**. It is important that you apply what you have read to answer their questions/problems as part of your class preparation. This “application” work will help you get more out of the reading assignment, gain a deeper understanding of class discussion, and in the long run, help you learn the material in a deeper way that will “stick” for a longer period of time.

## **E. EXPECTATIONS FOR OUTSIDE OF CLASS**

While the amount of time you need to set aside for class preparation will vary with the degree of difficulty of the materials we will be discussing, per the ABA rules, you should be devoting a **minimum of three hours of outside of class study time for each 1.5-hour weekly class session**, and often more than that. “Study time” may include reading the assigned materials, case briefing and outline preparation, completing all assignments, taking practice tests, etc.

### **Prepare for class by following the below approach BEFORE each class:**

1. First, read the assigned casebook pages and, if assigned for that week, any rules, statutes, and constitutional provisions. Most of the federal rules in the rules supplement include how the rule fits it, the architecture of the rule, and how it works in practice. You are, therefore, required, as part of your preparation for class, to read these carefully as well. You may be called on to break down the rule or statute for the class.
2. Try to answer the Notes and Questions (if applicable) at the end of each case you read in the textbook. You may be called on in class to answer these questions.
3. Brief each case you are assigned to read. You may be required to submit copies of your case briefs at random so have a written or typed brief ready to turn in (by hand or online - whichever you prefer) on all cases we read in this class.

### **DURING class approach:**

1. Do NOT try to write down every word. Your completed case briefs should allow you to make notes and add commentary without needing to write down everything discussed in class since you should have most important details already written in your brief if you are correctly briefing your cases and answering the notes and questions prior to class.
2. Highlight or make a note of key rules and discussion we spend a lot of time discussing in class.
3. Pay attention to examples and hypos as those often form the basis of future exams.
4. Always try to answer the questions being asked in class in your head even if a classmate is the one being called on.
5. Focus on class and don’t allow yourself to get distracted by your phone or the internet or any other distractions in class.

### **POST-class approach:**

1. Review your notes from class while they are fresh in your head. Make a note of any areas of confusion now so you can ask the professor in office hours or after class. Do not be afraid to ask a question if you are confused.

2. Reread any cases or areas of confusion as needed as well as hypos and examples discussed in class; use supplements to help here too (see list provided in class 1).
3. Complete any post-class Core Knowledge for Lawyers or U World assignments or any other assignments listed.
4. Create and regularly update an organization tool (flashcards, outlines, approaches, visual charts, etc.) that will help you memorize and synthesize your rules to prepare for exams.
5. Go to office hours if you need help with anything.

## F. **PRACTICE QUESTIONS, EXAMS, AND GRADING**

Throughout the semester, I will be happy to review with students answers to practice exams and practice questions that I will distribute from time to time or that are available on the course webpage. *Do not wait until the end of the semester to begin taking practice exams and answering practice questions.*

There will be a graded mid-term exam and a final exam. The mid-term exam will consist of at least one essay question and perhaps several short-answer and/or multiple-choice questions. The final exam will contain one or two essay questions, and multiple-choice questions. The final course grade will consist of:

- 10% for good faith completion of all assignments (includes Core Knowledge for Lawyers, U World, briefs, quizzes, practice tests, and any other assignments), class participation, and professionalism;
- 20% weighting of the mid-term examination; and
- 70% weighting of the final examination (weighted 50% essay and 50% multiple-choice).

**All exams will be closed book just like the CA bar exam.**

## G. **CLASS PARTICIPATION**

Legal education is a cooperative venture and oral communication skills will be important throughout your professional life. Each of you must be prepared to participate in class on a regular basis. If you have not read the materials, you are unprepared. I will periodically call on students in class at random to describe cases or rules and to answer questions. Even though some students find this method unattractive or intimidating, overcoming intimidating circumstances is an important and time-tested part of the legal education process. And the single most effective way to overcome the intimidation is to be prepared. Also, it is fairly inconsiderate of the time and efforts of your fellow students to come to class unprepared.

Please note, however, that there is a significant difference between being unprepared and being unable to correctly answer a question. No one knows the answer to every law-related question. An important part of the learning experience is testing your own opinions and conclusions. You will not be penalized for venturing an incorrect answer as long as it is a thoughtful answer based on preparation. An important part of the learning process involves thinking out loud and making mistakes.

## H. **ATTENDANCE, DECORUM, AND NOTETAKING IN CLASS**

I will take attendance at the beginning of each class by asking you to sign in for the class on a roll sheet. If you are not signed in, you are absent. In accordance with the school rules, **if you miss more than four 1.5-hour classes, you will be academically dismissed from the course.**

You should be in your seat at the commencement of class to be counted as present for the class. Similarly, you should not leave until the end of class. If you have an emergency that causes you to have to leave during the class, please do so unobtrusively. If you have a disability which prevents you from remaining in your seat during the class, please contact the Registrar or the Academic Dean.

Smart phones and the like should not be heard or used in the classroom. You may use your laptop computer, but it should be open only to course related materials. I know that many students use their laptops to take notes in class. I want to make you aware that **studies have shown that students do better on exams when they take notes by hand (the old-fashioned way).** Remember that technology is a tool. It cannot replace the wonderful learning tool that is your mind. Do everything you can to make sure that your mind is fully engaged during class, and that even when you are not directly participating in class discussion that you are actively listening and thinking.

## I. **SEATING CHART**

A seating chart will be distributed during one of the beginning classes. Please print your preferred name legibly in the seat you choose for your permanent seat. If you wish to change your seat later, please notify me so that I can make the appropriate change on the chart.

## J. **OFFICE HOURS**

I am delighted to talk with students almost any time. I am happy to have office hours both in person and/or online via Zoom. Since your schedules all vary, please email me directly to set up an office hour appointment and I will be sure to meet with you at a time convenient for you. I will also set up some office hours through the course page weekly as well. **Any requests to review practice essays and/or rule outlines/approaches must be done in person.**

**All zoom office hour meetings will use the following zoom link:**

<https://us06web.zoom.us/j/82522592912?pwd=OWthS0R2UmFEWHBXd3JtV3lMZHAvQT09>

Meeting ID: 825 2259 2912

Passcode: 143826

## K. **WEB COURSE**

Sometime before the first day of class I will set up a Lexis Web Course for this class. During Orientation, you will be told how to register with Lexis to access the course page. You will then

be enrolled in the web course for my class and will be able to access any posted course materials. During the semester I will use this web course to send you emails, make class announcements and post course documents such as this syllabus, charts, questions, outlines, and other documents that pertain to the topics we will study. I will also use the web course to post practice exams. Please make sure you **have access to the site BEFORE the first day of class** and that you **sign up for course notifications**.

**L. CLASS ASSIGNMENTS (subject to modification)**

Class	Topic	Required Reading PRIOR to Class	Corresponding Required assignments – POST class
Class 1 (8/19)	<b>Introduction</b>  <b>Personal Jurisdiction (PJ): The Fountain Head &amp; Interim Developments</b>	<b>Freer 3-23</b>  <b>Freer 91-101</b> ( <i>Pennoyer</i> )  <b>Rules Supplement 12-16</b> (stop after PJ – Intro)	<b>Core Knowledge for Lawyers assignments/link forthcoming (updated questions to match the new case textbook not released yet) – an updated syllabus will be provided as soon as possible.</b>
Class 2 (8/21)	<b>PJ: Statutory limits on PJ (Long-arm statutes) &amp; PJ in Fed. Court</b>  <b>PJ: The Modern Era</b>	<b>Freer 209-214</b>  <b>Freer 101-109</b> ( <i>Int'l Shoe</i> , Note on <i>McGee &amp; Hanson</i> )	
Class 3 (8/26)	<b>PJ: Minimum Contacts</b>	<b>Freer 109-120</b> ( <i>World-Wide Volkswagen</i> )	
Class 4 (8/28)	<b>PJ: Intentional Torts &amp; Contracts</b>	<b>Freer 120-126</b> (Notes on <i>Keeton, Calder, &amp; Walden; Burger King</i> )	
<b>Monday 9/2/24 – No Class (Labor Day Holiday)</b>			
Class 5 (9/4)	<b>PJ: Stream of Commerce</b>	<b>Freer 126-144</b> ( <i>Asahi</i> notes; <i>J. McIntyre Machinery</i> )	
Class 6 (9/9)	<b>PJ: General and Specific Jurisdiction</b>	<b>Freer 144-166</b> ( <i>Daimler AG; Bristol-Myers Squibb Co.</i> )	
Class 7 (9/11)	<b>PJ: General and Specific Jurisdiction</b>  <b>PJ: In Rem &amp; Quasi-in-Rem Jurisdiction</b>  <b>PJ: Transient presence (“Tag” Jurisdiction)</b>	<b>Freer 166-184</b> ( <i>Ford Motor Co.</i> )  <b>Freer 184-188</b> ( <i>Shaffer</i> )  <b>Freer 188-193</b> ( <i>Burnham</i> )	
Class 8 (9/16)	<b>PJ: Consent to Jurisdiction</b>	<b>Freer p. 193-201</b>	<b>15 Questions on Personal Jurisdiction through U World (link to access on</b>



	<b>PJ: PJ &amp; the Internet</b>  <b>Challenging PJ</b>	<b>Freer 201-209</b> ( <i>Telemedicine Solutions LLC</i> )  <b>Freer 214-219</b> ( <i>Baldwin</i> )	Lexis Nexis course home page)  <b>Work on organizational tool (outline, flashcards, flow chart, etc.) for PJ – bring to next class</b>
Class 9 (9/18)	<b>Review of PJ</b>	<b>Review PJ rules</b>	“Core” PJ questions through Core Knowledge for Lawyers (link on course home page)  Update your organizational tool (if necessary) and bring to next class to use during in class essay
Class 10 (9/23)	<b>In class PJ essay and review</b>	<b>Review PJ rules</b>	Submit assigned PJ essay (from in class) by the end of the day
Class 11 (9/25)	<b>Notice &amp; Opportunity To Be Heard</b>  <b>Midterm preparation</b>	<b>Freer 225-234</b> ( <i>Mullane</i> )  <b>FRCP 4</b>	“Core” Notice & Opp. To Be Heard questions
Class 12 (9/30)	<b>Notice &amp; Opportunity To Be Heard</b>	<b>Freer 234-246</b> ( <i>Nat’l Development Co.</i> )  <b>FRCP 4</b>	15 MBE Questions on U World on Service of Process and Notice
Class 13 (10/2)	<b>Midterm</b>	<b>Study for midterm</b>	
Class 14 (10/7)	<b>Subject Matter Jurisdiction (SMJ): Diversity</b>	<b>Freer 25-40</b> ( <i>Strawbridge; Mas</i> )  <b>US Constitution, Art. III</b>  <b>28 USC §1332</b>	
Class 15 (10/9)	<b>SMJ: Diversity</b>	<b>Freer 40-61</b> ( <i>Randazzo; Hertz; Belleville</i> )  <b>US Constitution, Art. III</b>  <b>28 USC §1332</b>	15 MBE Questions on U World on Subject Matter Jurisdiction (Diversity)
Class 16 (10/14)	<b>SMJ: Federal Question</b>  <b>Supplemental Jurisdiction</b>	<b>Freer 61-80</b> ( <i>Mottley; Grable</i> )  <b>US Constitution, Art. III</b>	13 MBE Questions on U World on Subject Matter Jurisdiction (Federal Question)/Supplemental Jurisdiction/Waiver

		<b>28 USC §1331; 1367</b>	“Core” SMJ questions
Class 17 (10/16)	<b>Removal &amp; Remand; Challenging SMJ</b>	<b>Freer 81-89</b>  <b>28 USC §§1441 and 1446-1448</b>  <b>FRCP 12(b)(3) &amp; (h)(3)</b>	10 Questions on U World on Removal and Remand
Class 18 (10/21)	<b>Introduction to Venue</b>	<b>Freer 247-257 (Bates)</b>  <b>28 USC §1391</b>	
Class 19 (10/23)	<b>Transfer of Venue; Forum Non Conveniens</b>	<b>Freer 257-278 (Piper)</b>  <b>28 USC §§1404, 1406</b>	14 MBE Questions on U World on Venue, Forum non conveniens, transfer  “Core” Venue questions
Class 20 (10/28)	<b>Pleadings: Complaint</b>	<b>Freer 307-335 (Note on Dioguardi &amp; Conley; Twombly; Iqbal)</b>  <b>FRCP 3, 7, 8, 9, 10, 54(c)</b>	
Class 21 (10/30)	<b>Pleadings: Complaint</b>  <b>Pleadings: Voluntary &amp; Involuntary Dismissal</b>	<b>Freer 335-344 (Swanson; Leatherman)</b>  <b>Freer 345-348</b>  <b>FRCP 41(a) and (b)</b>	10 MBE Questions on U World on Complaints and Adjudication without trial (dismissals)  “Core” Adjudication w/o a Trial questions
Class 22 (11/4)	<b>Pleadings: Defendant’s Options in Response: Motions</b>  <b>Defendant’s Options in Response: The Answer</b>  <b>Failure to Respond: Default and Default Judgment</b>	<b>Freer 348-351</b>  <b>FRCP 8, 12</b>  <b>Freer 351-355</b>  <b>FRCP 8, 12</b>  <b>Freer 355-357</b>  <b>FRCP 55, 60(b)</b>	17 MBE Questions on U World on Answers, Pretrial Motions, & Default Judgments
Class 23 (11/6)	<b>Pleadings: Amendments</b>	<b>Freer 357-366 (Marsh)</b>  <b>FRCP 15</b>	7 MBE Questions on U World on Amended Pleadings, Supp. Pleadings  “Core” Pleadings & Judgments questions
<b>No Class Monday 9/11/24 (Veteran’s Day Holiday) – Monday classes meet Tuesday this week instead!</b>			
Class 24 (11/12) - <b>Tuesday</b>	<b>Pleadings: Rule 11</b>	<b>Freer 367-381 (Mata)</b>  <b>FRCP 11</b>	4 MBE Questions on U World on Rule 11

Class 25 (11/13)	<b>The Erie Doctrine: When must a federal court apply state law</b> <i>Hanna</i> and the FRCP	Freer 529-550 ( <i>Erie</i> ; <i>Byrd</i> ) U.S. Constitution, Art. VI, cl. 2 28 USC §1652 (RDA) 28 USC §2072 (REA)	
Class 26 (11/18)	<b>The Erie Doctrine: continued</b>	Freer 550-564 ( <i>Hanna</i> ) U.S. Constitution, Art. VI, cl. 2 28 USC §1652 (RDA) 28 USC §2072 (REA)	“Core” What Law Applies in Federal Court questions
Class 27 (11/20)	<b>The Erie Doctrine: continued</b>	Freer 565-608 ( <i>Gasperini</i> ; <i>Shady Grove</i> ; <i>Deweerth</i> )	21 MBE Questions on U World on Law Applied by Federal Courts
Class 28 (11/25)	<b>Final exam review</b>		
<b>FINAL EXAM TBD – CHECK FINAL EXAM SCHEDULE</b>			